numbers of newspapers, magazines, trade journals and bulletins; that they use traveling men, lumber dealers, agents, lawyers, justices of the peace, mercantile associations, railroad companies and the clippings sent out by a number of clipping bureaus. At times defendants' mail reaches approximately 2,000 pieces of mail per day. A large force of employés and large offices are required in the management of the business.

"On the other hand, a number of instances are disclosed in the evidence which have strong tendency to establish the charge that defendants have used some of complainants' copyright material in making their book. The same mistakes occur in each. In one case complainants' witness swears to an entirely fictitious item placed in complainants' book as a test, which was duly appropriated by defendants. In regard to a number of items said to be duplicated, defendants show original investigation. Still, when all the explanations are considered, it seems to be fairly established that defendants did take some of the items complained of. Generally such *indicia* is held to indicate a substantial theft of copyright property, but taking all the evidence together I am satisfied that the items selected as tests constitute the bulk of all the items taken, and that they are of small moment in comparison with the whole.

"Defendants' book gives information on 113 subjects, complainants on 19. When we consider that the matter consists of names and other data, which, when true, must be the same in any report, and that in many cases the source of information must often be the same with both the parties thereto, it would seem to be just to lay down a different rule from that which obtains in cases where syllabi and summaries of law and fact are appropriated. Here seems to be no attempt to coin money out of another's labor. It is clearly a case in which the matter taken must be substantial and such as to really work injury to complainants.

"When we take note of the character of the items alleged to be appropriated on the one hand and the consequences of

granting the injunction prayed for, it would be an unwarrantable use of the power of the court to do so."

The Circuit Court of Appeals said:

"The question is one of fact, to be solved by a study of the evidence. From our examination we concur in the conclusion of the Circuit Court. The large features are that appellees' book of about 60,000 names contain over 16,000 (and over 400 towns) that are not in Dun's; that of the names in common only about fifteen per cent have similar capital ratings, that of the names with similar capital ratings a large proportion are classified differently respecting the particular businesses; and that six times as many different classes of information are given in appellees' book as in Dun's. On every page of appellees' book the names that are not given in Dun's and the names regarding which the information does not exceed or substantially vary from that given in Dun's bear the relation of three to one. These features are ocular confirmation of appellees' testimony regarding the long-continued, elaborate and comprehensive system of obtaining independent information. It is futile to claim that such a system, producing twenty-five per cent more names than Dun, and six times as many subjects of information concerning the persons named, is kept up at great expense merely as a cloak. It may be that the evidence would require a finding that with respect to a few names an improper use of Dun's book was made by an agent or correspondent of appellees. But the proportion is so insignificant compared with the injury from stopping appellees' use of their enormous volume of independently acquired information, that an injunction would be unconscionable. In such cases the copyright owner should be remitted to his remedy at law. Drone on Copyright, 413; *Mead* v. *West Pub. Co.*, 80 Fed. Rep. 380."

We cannot, as we are asked to do by the appellants, reverse the findings of fact made by the Circuit Court and the Circuit Court of Appeals. Successively considering the same evidence, the two courts agree in the findings. In such a case in a suit

in equity the findings will not be disturbed by this court, unless they are shown to be clearly erroneous. *Towson* v. *Moore*, 173 U. S. 17; *Brainard* v. *Buck*, 184 U. S. 99; *Shappirio* v. *Goldberg*, 192 U. S. 232. An examination of the voluminous testimony shows that it tended to sustain the findings, and that, to say the least, there is no ground for saying that the conclusions drawn from the evidence were clearly erroneous.

Accepting as true the facts found, we think the discretion of the court was wisely exercised in refusing an injunction and remitting the appellants to a court of law to recover such damage as they might there prove that they had sustained. The reasons for this conclusion are tersely stated in the opinion of the Court of Appeals, which we have quoted, and we approve them.

Judgment affirmed.